IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.747 OF 2006

Lona Industries Ltd., Bombay ...Petitioner.

Versus

State of Maharashtra ...Respondent.

Mrs. Deepa Chavan with Shri V.R.Warerkar for the Petitioner.

Shri A.H.Palekar, A.G.P for the Respondent.

CORAM : S.C.DHARMADHIKARI,J.

DATE : 14th FEBRUARY, 2006.

P.C. :

1. The petitioner is aggrieved by the order of the learned Additional District Judge in Misc.Civil Appeal No.9 of 2001. By the order under challenge, delivered on 30th August, 2005, the lower Appellate Court has allowed the Appeal preferred by the defendant-respondent. In other words, the order of the trial Court granting temporary injunction in the petitioner's Suit, being Regular Civil Suit No.33 of 1997, is set-aside.

2. Mrs.Chavan - learned Counsel appearing for the petitioner states that after the judgment of the lower Appellate Court, the petitioner discovered that identical Suits instituted by other units against same defendants have been partly decreed. She submits that, the said judgments would have a direct bearing on the controversy in the petitioner's Suit which is pending.

She submits that, the lower Appellate Court has proceeded on the basis that there is absolute right of the respondent-defendant to recover water charges. However, she submits that after the evidence is led in other Suits, the Issue as to whether such an agreement would prevail or the respondent-defendant has to justify its act, is still open. Therefore, she submits that liberty be reserved to the petitioner to apply for appropriate interim relief in the light of these changed circumstances.

3. In my view, since the Regular Civil Suit is pending from 1997 and other Suits have been decided, it would be desirable that hearing of the Regular Civil Suit in question is expedited and the trial Judge is directed to decide the same within a period of six months from today.

4. Needless to state that it would be open for the petitioner to apply for appropriate interim orders; and upon such application being made, it would be decided on its own merits and in accordance with law uninfluenced by the observations of the lower Appellate Court. Equally, it would be open for the respondent to contend that there are no changed circumstances.

Petition disposed of with the above liberty.

(S.C.DHARMADHIKARI,J.)